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ACTION HA-05

INFO OCT-01 ARA-14 ISO-00 CIAE-00 DODE-00 PM-05 H-02
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SS-15 USIA-15 TRSE-00 AID-05 MCT-01 IO-14 OMB-01
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R 151625Z DEC 77
FM AMEMBASSY BUENOS AIRES
TO SECSTATE WASHDC 3731

UNCLAS SECTION 1 OF 2 BUENOS AIRES 9555

E.O. 11652: N/A
TAGS: SHUM, AR
SUBJECT: ARGENTINA HUMAN RIGHTS: SENTENCING OF GRAINVER GROUP
REF: STATE 296542 TOSEC 120144

1. THE VERDICTS AND SENTENCES METED OUT BY A MILITARY TRIBUNAL DECEMBER 9 AGAINST THE SO-CALLED "GRAIVER GROUP" WERE WIDELY REPORTED IN THE ARGENTINE PRESS DECEMBER 10. THE FOLLOWING INDIVIDUALS RECEIVED THE MAXIMUM SENTENCE OF 15 YEARS' IMPRISONMENT FOR "ILLICIT ASSOCIATION" PLUS PERPETUAL DISQUALIFICATION FROM EXERCISING THE RIGHT TO VOTE, HOLD PUBLIC OFFICE AND OTHER CIVIL RIGHTS: ISIDORO MIGUEL GRAIVER, LIDIA ELBA PAPALEO, AND JUAN GRAIVER RESPECTIVELY, THE BROTHER, WIFE AND FATHER OF THE LATE DAVID GRAIVER. THE FOLLOWING PERSONS RECEIVED LESSER SENTENCES FOR "COVERING UP" THE CRIME OF ILICIT ASSOCIATION: SILVIA CRISTINA FANJUL, DAVID'S SECRETARY, AND LIDIA CATALINA GESUALDI (7 1/2 YEARS' IMPRISONMENT PLUS PERPETUAL LOSS OF CIVIL RIGHTS); EVA GITNACHT DE GRAIVER, DAVID'S MOTHER, AND LIDIA HAYDEE BRODSKY DE GRAIVER (4 YEARS' IMPRISONMENT PLUS LOSS OF RIGHTS). ENRIQUE BRODSKY, ANTOHER
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FAMILY MEMBER, WAS ACQUITTED OF THE CHARGE OF COVERING UP.

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ARGENTINA PROJECT (S20000004)
U.S. DEPT. OF STATE, A/RPS/PS
Margaret P. Gaffield, Director
☒ Release ☐ Excise ☐ Deny
Exemption(s):
Declassify: ☐ In Part ☐ In Full
☐ Classify as ☐ Extend as ☐ Downgrade to
Date ☐ Declassify on Reason

2. ARMY I CORP RELEASED A COMMUNIQUE AT THE SAME TIME EXPLAINING THE MILITARY TRIBUNAL'S REASONING IN REACHING ITS DECISION. ACCORDING TO THIS STATEMENT, AS REPORTED IN THE PRESS, THOSE CONVICTED OF "ILLICIT ASSOCIATION" IN THIS CASE BECAME MEMBERS OF THE ILLEGAL ORGANIZATION KNOWN AS "MONTONEROS" WHEN THEY AGREED TO HANDLE MONTONEROS FUNDS INVESTED WITH THE GRAIVER GROUP AND PAID INTEREST ON THIS INVESTMENT. ACCORDING TO THE ARGENTINE PENAL CODE, THE COMMUNIQUE ASSERTED, ANYONE WHO, KNOWING THE OBJECTIVES OF AN ILLEGAL ORGANIZATION, PROVIDES SERVICES TO THAT ORGANIZATION ON A RECURRING BASIS, IS "TAKIN PART" IN THAT ORGANIZATION, WHICH IS TANTAMOUNT TO BEING A MEMBER. IN THE CASE OF THE MONTONEROS, CONTINUED THE COMMUNIQUE, THIS IS A NOTORIOUS ORGANIZATION WHOSE SUBVERSIVE AND TERRORISTS OBJECTIVES AND TACTICS WERE WELL KNOWN BY ALL. THE MONTONEROS CONSTRUCTED A SUPPORT APPARATUS USING A LARGE NUMBER OF PEOPLE WHO WERE NOT NECESSARILY ATTUNED IDEOLOGICALLY WITH THEIR OBJECTIVES. FOR THE PURPOSE OF FINDING THE ACCUSED GUILTY, IT IS IRRELEVANT WHETHER THE MOTIVES BEHIND THE ILLICIT ASSOCIATION WERE PERSONAL CONVICTION, ECONOMIC GAIN OR MERE CONVENIENCE.

3. THE COMMUNIQUE ALSO MADE THE FOLLOWING COMMENTS AND EXPLANATIONS REGARDING THE CRIME OF COVERING UP: COVERING UP AN ILLICIT ASSOCIATION TAKES ON A MORE SERIOUS CONNOTATION WHEN THAT ORGANIZATION
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IS SUBVERSIVE AND THE COUNTRY IS IN THE MIDST OF A LIFE-OR-DEATH STRUGGLE FOR SURVIVAL AGAINST THE SUBVERSIVE ORGANIZATION IN QUESTION. IN THIS STRUGGLE, THE COUNTRY, THROUGH ITS LAWS, CANNOT TOLERATE NEUTRALISM, INDIFFERENCE OR FEAR ON THE PART OF ITS CITIZENS WHICH CONTRIBUTE TO SUSTAINING THE ILLICIT ORGANIZATION. IN ORDER FOR A COURT TO CONVICT ON THE CHARGE OF COVERING UP A CRIME, A PRIOR CONVICTION OF THE PERSON WHO COMMITTED THE CRIME WHICH HAS BEEN COVERED UP IS NOT NECESSARY; THE FINDING THAT AN ACT TOOK PLACE WHICH HAS ALL THE OUTWARD APPEARANCES OF BEING A CRIME IS SUFFICIENT. THE INDIVIDUAL FOUND GUILTY OF

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COVERING UP A CRIME IN THIS CASE HAD AMPLE TIME PRIOR TO THEIR ARREST TO DISCHARGE THEIR PATRIOTIC DUTY BY DENOUNCING THAT CRIME WITHOUT NECESSARILY RISKING THEIR LIVES, BUT THEY DID NOT AVAIL THEMSELVES OF THE OPPORTUNITY. NOTWITHSTANDING THE PHYSICAL RISKS WHICH MAY BE INVOLVED, THE STATE HAS A LEGITIMATE RIGHT TO REQUEST ITS CITIZENS TO DENOUNCE SUBVERSION, WHICH IS EQUIVALENT TO THE STATE'S POWER TO DRAFT ITS CITIZENS INTO MILITARY SERVICE AND, IF NECESSARY, EXACT THE ULTIMATE SACRIFICE OF THEIR LIVES IN DEFENSE OF THE NATION. THE CITIZEN CANNOT LEGALLY RENOUNCE HIS DUTY TO DENOUNCE SUBVERSION.

4. AS REPORTED REFTTEL, THE MILITARY COMMUNIQUE SHED NO FURTHER LIGHT ON THE CIRCUMSTANCES SURROUNDING THE CHARGES, THE EVIDENCE PRESENTED TO SUPPORT THE CHARGES, OR THE TRIAL PROCEEDINGS. SOME NEWSPAPERS, HOWEVER, ADDED ALLEGATIONS LEAKED EARLIER TO THE PRESS THAT DAVID GRAIVER HAD BEEN THE MASTERMIND OF A FINANCIAL INSTITUTION WHICH HAD RECEIVED AN INVESTED MONTONERO FUNDS
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TOTALLING US\$17 MILLION OBTAINED ILLEGALLY THROUGH ROBBERY AND EXTORTION.
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5. ONE NEWSPAPER REPORTED THE FOLLOWING CHRONOLOGY OF RELEVANT EVENTS RELATING TO THE GRAIVER CASE:

(A) ON APRIL 14, 1977, ARMY HEADQUARTERS ISSUED A STATEMENT THAT THE FOLLOWING 15 PERSONS HAD BEEN PLACED AT THE DISPOSITION OF MILITARY AUTHORITIES FOR HAVING BEEN IMPLICATED IN IMPORTANT SUBVERSIVE ACTIVITIES: DANTE MARRA, JULIO DAICH, JUAN GRAIVER, LIDIA ELVA PAPALEO, SILVIA CRISTINA FANJUL, LIDIA CATALINA GESUALID, UISIDORO MIGUEL GRAIVER, FLORA DYBNER DE RAVEL, FRANCISCO FERNANDEZ BERNARDEZ, MARTIN ANTONIO ABERG COBO, JORGE RAUL RODRIGUEZ, RICARDO ANIBAL PERERA, GUSTAVO CARABALLO, ERNESTO MARIA DE ESTRADA Y RICARDO JOSE BERTOLDI.

(B) ON APRIL 19, THE MILITARY JUNTA INCLUDED IN THE ACT OF INSTITUTIONAL RESPONSIBILITY (ISSUED JUNE 18, 1976) SIX MEMBERS OF THE GRAIVER GROUP AND THE HEIRS OF DAVID GRAIVER AND JORGE RUBINSTEIN.

(C) IT WAS REVEALED AT THIS TIME THAT RUBINSTEIN, UNCLASSIFIED

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THE ADMINISTRATOR OF PART OF THE GRAIVER PROPERTIES, HAD DIED.

(D) AT THE BEGINNING OF MAY, THE CENTRAL BANK REVOKED THE BANKING LICENSE PREVIOUSLY ISSUED TO GRAIVER'S BANCO COMERCIAL DE LA PLATA.

(E) A DAY LATER, 18 COMPANIES ASSOCIATED WITH THE GRAIVER INTERESTS WERE INTERVENED BY THE GOVERNMENT UNDER ITS STATE-OF-SIEGE POWERS.

(F) THAT SAME DAY, ARMY I CORP ISSUED AN OFFICIAL STATEMENT THAT DAVID GRAIVER HAD BEEN FOUND TO HAVE MAINTAINED AN ILLICIT ASSOCIATION WITH MONTONEROS INVOLVING FINANCIAL DEALINGS.

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(G) ON THE 4TH OF JULY THE MILITARY TRIBUNAL, WHICH REPORTEDLY IS COMPOSED OF SENIOR OFFICERS OF THE THREE ARMED SERVICES AND IS HEADED BY COL. GLODOVEO BATTESTI, INITIATED PROCEEDINGS.

(H) ON THE 9TH OF SEPTEMBER THE TRIBUNAL WAS REPORTED TO HAVE FINISHED THE PRELIMINARY INVESTIGATION STAGE AND TO HAVE BEGUN TAKING DEPOSITIONS.

(I) ON THE 15TH OF OCTOBER ARMY I CORP ANNOUNCED IT HAD BEEN DECIDED THAT EIGHT INDIVIDUALS OUT OF THOSE ARRESTED IN THIS CASE WOULD BE SUBJECTED TO MILITARY TRIAL AS A RESULT OF THE FINDINGS OF THE JUDICIAL INVESTIGATION. THE EIGHT WERE THOSE LISTED IN PARA 1,
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ABOVE, WHO WERE HANDED DOWN THE COURT'S VERDICTS ON DECEMBER 9. THE OTHER INDIVIDUALS ARRESTED IN CONNECTION WITH THIS CASE, IT WAS ANNOUNCED, WOULD BE TURNED OVER TO THE COMMON CRIMINAL COURTS, SINCE IT HAD NOT BEEN PROVEN THAT THEY HAD ANY CONNECTION WITH THE TIES OF THE GRAIVER GROUP WITH SUBVERSION.

(J) ON NOVEMBER 10 THE MILITARY JUNTA INCORPORATED LIDIA HAYDEE BRODSKY DE GRAIVER, EVA GITNACHT DE GRAIVER AND LA OPINION PUBLISHER JACOBO TIMERMAN UNDER THE ACT OF INSTITUTIONAL RESPONSIBILITY.

6. EMBASSY'S COMMENTS REGARDING INFORMATION CONTAINED REFTTEL CONCERNING TIMERMAN AND THE RECENT SEIZURE OF RELATIVES OF DISAPPEARED PERSONS BEING SUBMITTED SEPARATELY.
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